

# News Corporation

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May 24, 2000

Ms. Magalie R. Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room TW-A325  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: PP Docket No. 00-67 (Compatibility Between Cable Systems and  
Consumer Electronics Equipment)

Dear Ms. Salas:

Attached are an original and four copies of comments in the above-captioned proceeding, filed on behalf of ABC, Inc., CBS Broadcasting Inc., Fox Broadcasting Company, Inc., and National Broadcasting Company, Inc.

Sincerely,

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Attachments

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Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room TW-A325  
Washington, D.C. 20554

Re: PP Docket No. 00-67 (Compatibility Between Cable Systems  
and Consumer Electronics Equipment)

Dear Ms. Salas:

The undersigned broadcast networks ("Networks") provide broadcast program service to affiliated stations providing almost every home in the U.S. with free television service. In this proceeding the Commission has identified copy protection technology as one of the "critical unresolved matters" affecting the deployment of digital television and has expressed concern that delay in resolving copy protection issues might have a deleterious effect on the implementation of DTV (*Notice of Proposed Rulemaking* ("NPRM") at par. 3). The Networks agree that copy protection is critical to the deployment of digital television service and, indeed, is critical to the future of advertiser-supported, universal broadcasting in the digital environment. An appropriate resolution of copy protection issues must give Networks and other broadcasters protection against unrestricted copying and electronic retransmission of their programs outside the home. Such protection will also ensure that program owners and distributors will be willing to embrace DTV technology and to create and license audiovisual content in digital format for the use of Networks and their affiliated stations.

The Networks believe the best and most expeditious way to address and resolve copy protection concerns is through the industry negotiations that are already underway, not through direct government action. If the Commission attempts to resolve the copy protection issue itself through notice and comment rulemaking procedures, the result might only be to further delay its resolution. However, the Commission should facilitate the

ongoing negotiations and urge the parties to arrive at solutions that serve the public interest in adequate copy protection for the programming available on the Networks and other broadcast stations. Only if private negotiations fail should the government consider direct measures that will ensure that interest is protected.

The Networks will not comment on the specific questions raised in the *NPRM* relating to the relationship between copy protection and compatibility standards. Instead, we use these Comments as an opportunity to state our belief in the critical importance of adequate copy protection for broadcast television, not only for the rapid implementation of DTV but for the future of our medium.

As the Commission notes in the *NPRM*,

[I]f digital content passes across an interface – whether between a television receiver and a set top box, a POD security module and a host device (e.g., a set top box or a television receiver), or some other interface – that content is susceptible to copying if the interface is unprotected. With a digital source, high quality copies can be made and further reproduced with virtually no degradation in quality. This has prompted content owners to express strong concerns about unauthorized reproduction of copyrighted material. (*NPRM* at par. 11).

In this regard, the “strong concerns” of broadcasters are no different – and no less compelling – than those of any other content provider. It is critical that program content provided to consumers in a digital broadcast signal, whether received over-the-air, over a cable wire or via satellite, be protected from unrestricted copying and electronic retransmission outside the home.

Without adequate copy protection for digital broadcast television, content owners could be effectively limited to exploiting a single broadcast of any program. New generations of software tools combined with the rapid growth of broadband Internet have made it possible for the average consumer to create and instantly redistribute virtually perfect digital copies of copyrighted works in a way that is simply not possible with analog videocassette recorders. If such unrestricted copying and worldwide electronic retransmission is possible, content owners who have traditionally relied on a number of markets or distribution “windows” to recoup their

investment in programming that appears on broadcast television (such as domestic and international syndication, home video, clip licensing, etc.), will find that the value of those secondary markets has been destroyed. In addition, the repeat broadcasts on which Networks and their affiliated stations rely to generate sufficient advertising revenues to cover the license fees for series programming and return some profit would similarly lose most if not all of their value.

If content owners cannot be assured that programming furnished to broadcast television will be protected from unrestricted copying and electronic transmission outside the home, they are likely to move toward selling high-value programming products to cable or other pay channels, where copy protection is likely to be more robust. Content owners must receive the same protection for their programs on broadcast television as they do on pay services. If they can protect an NFL game on ESPN, a theatrical movie on HBO or a repeat of a series episode on FX, but can get no protection for exhibition of exactly the same program on one of the Networks, content owners will have little incentive to offer these valuable program assets to broadcast television in the first instance. Or they may insist on higher license fees from the Networks in an effort to ensure that the millions of dollars they have invested in the creation of programming can be recouped with the initial broadcast. These scenarios are not only harmful to free broadcast television, but to consumers.

The absence of adequate copy protection for broadcast programming will also impede the deployment of digital television service. If content suppliers are reluctant to license their programs for digital broadcast distribution because of the lack of copy protection, broadcast networks and stations will not be able to provide consumers with the quality and quantity of digital programming that will stimulate the market for digital receivers. The longer it takes for consumers to embrace digital technology with the purchase of digital sets, the longer it will take to transition to digital.

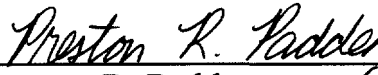
Moreover, the Networks believe that the Commission should not preclude any digital program service, including broadcast programming, from being carried on the basic programming tier simply because it is encrypted (See, *NPRM* at par. 17). The ability to encrypt need not affect the universality of broadcast television nor its status as a free to the consumer program service. Because it may well be necessary to require conditional access in order to utilize available copy protection technology, broadcasters

and other digital programming services should be afforded the flexibility to encrypt their signals. Accordingly, the Commission should adopt a flexible approach, and should not impose or retain any regulation that would preclude any digital programming service (broadcast or non-broadcast) from being included in a basic programming tier simply because such digital programming service is delivered on a conditional access basis.

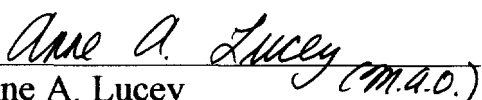
In sum, copy protection is a critical ingredient to the successful and rapid deployment of digital television. Direct Commission involvement in copy protection standard setting is ill advised, as it would inevitably complicate and delay a final resolution of the outstanding issues. We urge the Commission not to take any action in this proceeding that would restrict the ability of the Networks and other broadcasters to obtain adequate copy protection for their programs from equipment manufacturers and program distributors. However, the Commission should continue to urge the affected industries to work toward adoption of adequate copy protection technology, including standards that protect the content that appears on broadcast television.

Respectfully submitted,


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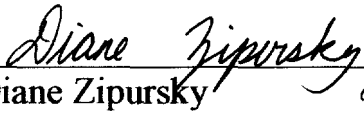
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